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**From:** Jones, Russell [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4795FDC630C34BE4AED0C6416A20D606-RUSSELL JONES]  
**Sent:** 8/14/2020 3:20:26 PM  
**To:** Hollis, Linda [Hollis.Linda@epa.gov]  
**CC:** Burnett, Gina [Burnett.Gina@epa.gov]; Bryceland, Andrew [Bryceland.Andrew@epa.gov]  
**Subject:** RE: Fertilizer Product Question  
**Attachments:** Criteria\_for\_\_Non\_PGR\_Determination\_03 07 2017\_03 19 2019Update\_RSJ\_Draft.doc

Linda:

Unfortunately, M009 does not provide any specific criteria to support a CSAU, but both Jeannine (for MPB) and I for (BPB an RAB Team 2-Biochemicals) have developed internal criteria for making these determinations. I have attached the latest doc for Biochemicals. You will need to contact Jeannine for what they do for Microbials. Since some products are mixtures of microbes and biochemicals, you may need both documents.

As for the "final" guidance, I will only be around to see the Guidance get to the re-proposal stage. Once re-proposed, it will go through another round of public comment, with the goal of publishing the final guidance by the end of 2020.

Russ

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**From:** Hollis, Linda <Hollis.Linda@epa.gov>  
**Sent:** Friday, August 14, 2020 11:08 AM  
**To:** Jones, Russell <Jones.Russell@epa.gov>  
**Cc:** Burnett, Gina <Burnett.Gina@epa.gov>; Bryceland, Andrew <Bryceland.Andrew@epa.gov>  
**Subject:** RE: Fertilizer Product Question

EXTREMELEY HELPFUL RUSS. THANK YOU.

My intent was to refer her to the M009, but I needed to know where we stood for myself. Does the criteria at 40 CFR 152.15 outline the conditions under what qualifies as a CSAU?

**DO NOT FORGET TO SEND US THE UPDATED GUIDANCE BEFORE YOU LEAVE.**

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**From:** Jones, Russell <Jones.Russell@epa.gov>  
**Sent:** Friday, August 14, 2020 11:01 AM  
**To:** Hollis, Linda <Hollis.Linda@epa.gov>  
**Cc:** Burnett, Gina <Burnett.Gina@epa.gov>; Bryceland, Andrew <Bryceland.Andrew@epa.gov>  
**Subject:** RE: Fertilizer Product Question  
**Importance:** High

Linda et al:

I will answer the questions in reverse order, beginning with the status of the Guidance Document:

1. The Guidance Document (Plant Regulator Products and Claims, Including Plant Biostimulants) has been updated in response to comments received between March and July 2019.
2. A Response to Comments was developed and completed. The Guidance was updated according to many, but not all comments received during the public comment period.
3. Both the Guidance and the RTC were then put on a “hold” until the USDA completed their Report to Congress on Plant Biostimulants that was completed (December 2019). The OCSPP IO instructed us to “hold” until Congress took action on the USDA Report.
4. To date, no known Congressional Action on the USDA Report.
5. While we were waiting, the Guidance and RTC were in internal BPPD review.
6. Alex Dunn now wants to “accelerate” the movement of the Guidance and RTC and now all documents are in OGC and Region review.
7. Goal is to re-propose the Updated Guidance on or before September 30.

As for a product containing Seaweed Extracts. Currently SWE are considered plant regulators. However, the Updated Guidance will make allowances for “Commercially Significant Alternative Uses (CSAU)” as described under 40 CFR 152.15, but the potential applicant would need to justify CSAU for **each product** containing a known plant regulator (not the plant regulator itself) with an M009 application.

As for the current request, the request by the consultant too vague. There are no details regarding the product or the amount of SWE in the product that is claimed to be a fertilizer.

Three other caveats:

1. OGC will not let us make a non-pesticide determination without a submission under M009. The consultant is obviously asking for a non-pesticide determination.
2. Regardless of the current status of the Guidance, we can still ask any applicant to voluntarily submit an M009 application if they want an official m009 determination from the Agency.
3. M009 determinations should be product-specific, not active ingredient specific. Products containing plant regulator active ingredients may have BOTH PR and non-PR activity.

I hope that wasn't too long-winded. You can Skype me for further clarifications if needed.

Russ

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**From:** Hollis, Linda <[Hollis.Linda@epa.gov](mailto:Hollis.Linda@epa.gov)>  
**Sent:** Friday, August 14, 2020 10:36 AM  
**To:** Jones, Russell <[Jones.Russell@epa.gov](mailto:Jones.Russell@epa.gov)>  
**Cc:** Burnett, Gina <[Burnett.Gina@epa.gov](mailto:Burnett.Gina@epa.gov)>; Bryceland, Andrew <[Bryceland.Andrew@epa.gov](mailto:Bryceland.Andrew@epa.gov)>  
**Subject:** FW: Fertilizer Product Question

Russ-

I have fallen behind on where we are on biostimulants. But I think that sea weed extracts would eventually fall under that category. Is that true? And if so, would not need to be regulated. If this is true, then is the answer to the question below that for now, until the policy is made final, the product in question would need to be regulated?

Is the document final? Can you send to me, Gina and Andy so that we will have it before you leave – which will be a sad day.

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**From:** Keeva Shultz <[keeva@wagnerreg.com](mailto:keeva@wagnerreg.com)>  
**Sent:** Friday, August 14, 2020 9:29 AM  
**To:** Hollis, Linda <[Hollis.Linda@epa.gov](mailto:Hollis.Linda@epa.gov)>  
**Subject:** Fertilizer Product Question

Hi Linda,

Hope all is well with you.

I was wondering if a company can have a fertilizer product that contains seaweed extracts along with other traditional fertilizer components without being regulated under FIFRA? The company intends to market only as a fertilizer. The label would not have any PGR or pesticidal claims – only fertilizer claims.

Thanks for your time!

Thank you,

*Keeva Shultz*

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